

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL NO. 1:06CV360  
(1:99CR52)**

<b>LONNIE EDGAR PEELER,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>Vs.</b>	)	<b><u>ORDER</u></b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent.</b>	)	
<hr style="width:40%; margin-left:0"/>	)	

**THIS MATTER** is before the Court on the Petitioner's motion for summary judgment.

The Petitioner states that the Respondent has failed to answer the issues raised in his motion to vacate, set aside, or correct sentence filed pursuant to 28 U.S.C. § 2255 and is, therefore, in "procedural default." What the Petitioner fails to realize is that the Respondent has no duty to answer the motion to vacate unless directed to do so by the Court. No order has been entered herein requiring the Respondent to file answer.

**IT IS, THEREFORE, ORDERED** that the Petitioner's motion for summary judgment is hereby **DENIED**.

Signed: April 4, 2007

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

